

UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF NEW YORK  
 XX  
 UNITED STATES OF AMERICA

-against-

SERGIO ESTEBAN ARCINIEGAS PENA  
 XX

☐ Waiver of Speedy Trial  
☒ Order of Excludable Delay  
 CR24-000128(CBA)

It is hereby ordered that the time periods from **4/25/24** until revocation of  
 this stipulation **5/29/24** are excluded periods of delay under the following code(s):

<u>SECTION</u>	<u>DELAY CODE</u>	<u>DELAY CATEGORY</u>
3161		
<input type="checkbox"/> (h)(1)(A)	A	Exam or hearing for mental or physical incapacity (18 USC:4244)
<input type="checkbox"/> (h)(1)(B)	B	NARA Exam (28 USSS:2902)
<input type="checkbox"/> (h)(1)(D)	C	State or Federal Trials/other charges
<input type="checkbox"/> (h)(1)(E)	D	Interlocutory appeals
<input type="checkbox"/> (h)(1)(F)	E	Pretrial Motions (from filing or being orally made for disposition)
<input type="checkbox"/> (h)(1)(G)	F	Transfers from other districts (Pursuant to F.R.Cr.P. 20,21 & 40)
<input type="checkbox"/> (h)(1)(J)	G	Proceedings under advisement not to exceed 30 Days
<input type="checkbox"/>	H	Miscellaneous proceedings: Parole or probation revocation, deportation, extradition
<input type="checkbox"/> (h)(1)(C)	5	Deferral of prosecution
<input type="checkbox"/> (h)(1)(H)	6	Transportation from another district of to/from

examination or hospitalization in 10 days or less

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> (h)(1)(I)         | 7 | Consideration by Court of proposed plea agreement                           |
| <input checked="" type="checkbox"/> (h)(2) | I | Prosecution deferred by mutual agreement                                    |
| <input type="checkbox"/> (h)(3)(A)(B)      | M | Unavailability of defendant or essential witness                            |
| <input type="checkbox"/> (h)(4)            | N | Period of mental or physical incompetency of defendant to stand trial       |
| <input type="checkbox"/> (h)(5)            | O | Period of NARA commitment for treatment                                     |
| <input type="checkbox"/> (h)(6)            | P | Superseding Indictment/new charges  |
| <input type="checkbox"/> (h)(7)            | R | Defendant awaiting trial of co-defendant when no severance has been granted |
| <input type="checkbox"/> (h)(8)(A)(B)      | T | Continuances granted per (h)(8) as determined by the Court due to:          |

- ☐ I. Emergencies such as:
  - ☐ a. natural disasters
  - ☐ b. blackouts;
  - ☐ c. public transportation of other strikes which substantially affect the Court's ability to operate
  - ☐ d. illness or death of defense counsel, the prosecutor or the judge as well as mourning periods observed by parties, counsel or Court
- ☐ II. The cooperation of the defendant  
(If this Order is to be sealed due to the cooperation of the defendant, check appropriate area at the end of this Order)
- ☐ III. The government attorney/defense attorney has demonstrated due diligence in all available time, but require additional time for preparation to prevent a miscarriage of justice such as:
  - ☐ attempt to locate an important witness:
  - ☐ belated discovery motions or notice of alibi defense which require additional time to investigate or expert analysis
- ☐ IV. The assurance that both defendant and government be represented by counsel of choice and by the same attorney throughout the proceedings, such as:
  - ☐ Counsel for government and/or defendant are unavailable for either date chosen by the Court, or the last date on which trial could commence under the Act;
  - ☐ inadequate time to prepare for this trial following conclusion of counsel's last trial;

- ☐ a brief vacation planned well in advance of the trial date
- ☐ V. The issue of complexity such as:
- ☐ complex or unusual case such as antitrust, securities fraud, mail fraud, narcotics conspiracy and net worth income tax case;
  - ☐ multiple parties or extensive documentary evidence
- ☐ VI. The Court orders the severance of the trial of one or more co-defendants either before trial commences or during trial
- ☐ VII. Excusable error of neglect such as:
- ☐ miscalculation in excludable time available;
  - ☐ the failure of a clerk to file a dismissal of the complaint although directed by the government to do so
  - ☐ the determination that a period of time previously held automatically excludable was incorrect
- ☐ VIII. The case may be disposed of after other proceedings are concluded such as:
- ☐ pending Supreme Court case determinative of outcome;
  - ☐ appellate affirmance of another proceeding involving the defendant will result in government's dismissal of this case
- ☐ IX. Time during the arrest-indictment or information interval by events beyond the control of the Court or government attorney, such as:
- ☐ the government's desire to pursue leads furnished by the defendant;
  - ☐ a reasonable period of time needed for the completion of a laboratory examination;
  - ☐ emergencies such as the illness of the government attorney;
  - ☐ cooperation of the defendant;
  - ☐ a reasonable period of time (not to exceed 60 days) beginning with the defendant's request to be considered for deferred prosecution;
  - ☐ time needed for the government attorney to comply with the Grand Jury deadlines promulgated by the Department of Justice

<u>SECTION</u>	<u>DELAY CODE</u>	<u>DELAY CATEGORY</u>
3161		
<input type="checkbox"/> (I)	U	Time up for withdrawal of guilty plea
<input type="checkbox"/> (b)	W	Grand jury Indictment time extended 30
<input type="checkbox"/>	X	Other: <u>Plea discussions.</u>

( ) This record of excludable delay is to be recorded upon the docket sheet by code only, and the Order placed under seal by the Clerk of the Court.

The non-trial period of time pursuant to Title 18 U.S.C. 3161(c)(2) should have commenced on \_\_\_\_\_ (Date of appearance through counsel of waiver of counsel).

The defendant has been made fully aware by counsel that pursuant to rights guaranteed under the Sixth Amendment to the Constitution, the Speedy Trial Act of 1974, 18 USC: 3161-3174, the Plan and Rules of this Court adopted pursuant to that act, and the Federal Rules of Criminal Procedure (50(b), the defendant is entitled to be tried before a jury within a specified time period, not counting excludable periods.

The Court approves this Speedy Trial ( ) Waiver ( x) Excludable Delay based upon its findings that his action serves the ends of justice and outweighs the best interest of the public and this defendant in a speedier trial.

Dated: 4/25/24

/s/Carol Bagley Amon  
Carol Bagley Amon, U.S.D.J.

Consented to:

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Counsel for defendant

\_\_\_\_\_  
For U.S. Attorney, E.D.N.Y.

Court signature required for Excludable Delay and Waiver of Speedy Trial; Defendant, defense counsel, and prosecutor to sign consent only if defendant is waiving Speedy Trial.